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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648-BA52

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Snapper-Grouper Fishery off the Southern Atlantic States;
Amendment 24

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) has submitted Amendment 24 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) for review, approval, and implementation by NMFS. Amendment 24 proposes actions to revise definitions of management thresholds for South Atlantic red grouper; establish a rebuilding plan; establish red grouper sector annual catch limits (ACLs) based on allocation decisions, a recreational annual catch target (ACT), and sector accountability measures (AMS); and remove the combined gag, black grouper, and red grouper ACLs and AMS. The intent of Amendment 24 is to implement a rebuilding plan for red grouper to help achieve optimum yield (OY) for the red grouper resource in accordance

with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on the amendment identified by NOAA-NMFS-2011-0298 by any of the following methods:

- Electronic submissions: Submit electronic comments via the Federal e-Rulemaking Portal:
<http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Rick DeVactor, Southeast Regional Office, NMFS,
263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-rulemaking portal: <http://www.regulations.gov>, click on "submit a comment," then enter "NOAA-NMFS-2011-0298" in the keyword search and click on "search." To view posted comments during the comment period, enter "NOAA-NMFS-2011-0298" in the keyword search and click on

"search." NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be considered.

Electronic copies of the amendment may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Rick DeVictor, telephone: 727-824-5305, or e-mail: rick.devictor@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of Magnuson-Stevens Act. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the Federal Register notifying the public that the plan or amendment is available for review and comment.

Background

The red grouper stock in the South Atlantic was assessed through the Southeast, Data, Assessment, and Review (SEDAR) process in 2010. The assessment indicates that the stock is experiencing overfishing and is overfished. Overfishing occurs

when either fishing mortality rate exceeds the maximum fishing mortality threshold or catch exceeds the overfishing limit. Overfishing may lead to an overfished condition. A stock is overfished when its biomass has declined below a level that jeopardizes the capacity of the stock to produce the maximum sustainable yield (MSY) on a continuing basis. The level is referred to as the minimum stock size threshold (MSST).

As directed by the Magnuson-Stevens Act, the Council must implement a rebuilding plan, through an FMP Amendment or proposed regulations, which ends overfishing immediately and provides for rebuilding the fishery. The intent of a rebuilding plan is to increase biomass of overfished stocks to a sustainable level within a specified period of time. A plan should achieve conservation goals, while minimizing to the extent practicable adverse socioeconomic impacts. NMFS notified the Council of the stock status on June 9, 2010; the Magnuson-Stevens Act specifies that measures to end overfishing and rebuild the stock must be implemented within 2 years of notification.

The Magnuson-Stevens Act requires that ACLs and AMs be implemented to prevent overfishing and achieve the OY from a fishery. An ACL is the level of annual catch of a stock in pounds or numbers of fish that, if exceeded, triggers AMs. AMs

are management controls to prevent ACLs from being exceeded and to correct overages of ACLs if they do occur. Two examples of AMs include an in-season closure if catch approaches the ACL and reducing the ACL by an overage that occurred the previous fishing year.

The Council and NMFS are implementing a division of the red grouper ACL into sector-ACLs based upon allocation decisions. The Council and NMFS have determined that sector-ACLs and sector-AMs are important components of red grouper management as each sector differs in scientific and management uncertainty.

Actions Contained in the Amendment

The amendment proposes to revise definitions of management thresholds for South Atlantic red grouper; establish a rebuilding plan; establish red grouper sector-ACLs based on allocation decisions, a recreational ACT, and sector AMs; and remove the combined gag, black grouper, and red grouper ACLs and AMs.

Modify the Current Definitions for Management Thresholds

Definitions of MSY, OY, and MSST were set for red grouper in Amendment 11 to the FMP. The Council is revising the definitions based on the most recent scientific information. MSY would equal the yield produced by F_{MSY} or the F_{MSY} proxy; MSY and F_{MSY} would be recommended by the most recent SEDAR or the

Council's Scientific and Statistical Committee (SSC). Amendment 24 would specify the MSY value for red grouper equal to 1.11 million lb (503,488 kg) until modified by further scientific information. The OY would be set equal to the acceptable biological catch (ABC) and ACL. The MSST, which is the overfished definition, would be changed from $(1-M) \times B_{MSY}$, where M equals natural mortality and B equals biomass, to 75 percent of SSB_{MSY} , where SSB_{MSY} equals spawning stock biomass at MSY. The change would relieve an administrative burden by expanding the buffer between MSST and SSB_{MSY} and avoid unwarranted designation of an overfished status.

Red Grouper Rebuilding Plan

The Council selected a 10-year rebuilding plan for red grouper in Amendment 24. This is the maximum time frame allowed under the Magnuson-Stevens Act. However, because the Council intends to manage the stock using the F_{OY} yield stream, the stock is projected to have an 81 percent chance of rebuilding, which is greater than the 70 percent recommended by the Council's SSC. Given management uncertainties and uncertainties regarding stock assessment projections more than a few years in the future, a 10-year rebuilding plan would allow for fluctuations in catches and provide flexibility to address the needs of fishing communities when setting catch levels and management measures.

Red Grouper Sector-ACLs, Recreational ACT, and AMs

The current combined gag, black grouper, and red grouper ACLs were implemented through Amendment 17B to the FMP (75 FR 82280, December 30, 2010), before black grouper and red grouper stock assessments were completed through SEDAR. The Council, through Amendment 24, proposes to remove the combined gag, black grouper, and red grouper commercial and recreational ACLs as the ACLs are not based upon the best scientific information. Amendment 24 would implement red grouper ACLs. The gag ACL, implemented through Amendment 16 to the FMP, will remain. The Comprehensive ACL Amendment will specify the ACL for black grouper.

The Council decided to define the red grouper ACL equal to ABC. The SSC's recommendation for ABC is the projected yield stream with a 70 percent probability of rebuilding success. The Council chose to define the rebuilding yield stream at the equivalent of OY (75 percent of F_{MSY}). The resultant ACLs proposed in Amendment 24, in round weight, are 647,000 lb (293,474 kg) for 2012, 718,000 lb (325,679 kg) for 2013, and 780,000 lb (353,802 kg) for 2014 and subsequent fishing years. In terms of AMs, if the ACLs, as estimated by the Southeast Fisheries Science Center (SEFSC) are exceeded in a fishing year, then during the following fishing year, the Assistant

Administrator for Fisheries (AA) will file a notification with the Office of the Federal Register to state that both the commercial and recreational sectors will not have an increase in their respective sector ACLs during that following fishing year. The ABCs, ACLs, and ACTs selected by the Council may be revised through future stock assessments.

The allocation of red grouper between the commercial and recreational sectors is 44 percent and 56 percent, respectively. Amendment 24 would implement ACLs for the red grouper commercial and recreational sectors based on this allocation.

The recreational ACTs would be equal to the recreational $ACL \times (1 - PSE)$ or $ACL \times 0.5$, whichever is greater, where PSE equals the proportional standard error from the Marine Recreational Information Plan data source. The ACT is an amount of annual catch of a stock or stock complex that is the management target of the fishery, and accounts for management uncertainty in controlling the actual catch at or below the ACL. ACTs are recommended in the system of accountability measures so that ACL is not exceeded.

The commercial ACLs, in round weight, would be 284,680 lb (129,129 kg) for 2012, 315,920 lb (143,299 kg) for 2013, and 343,200 lb (155,673 kg) for 2014 and subsequent fishing years. The recreational ACLs, in round weight, would be 362,320 lb

(164,346 kg) for 2012, 402,080 lb (182,380 kg) for 2013, and 436,800 lb (198,129 kg) for 2014 and subsequent fishing years. The recreational ACTs, in round weight, would be 271,740 lb (123,259 kg) for 2012, 301,560 lb (136,785 kg) for 2013, and 327,600 lb (148,597 kg) for 2014 and subsequent fishing years.

AMs

The Council intends to remove the combined gag, black grouper, and red grouper commercial and recreational AMs established through Amendment 17B. Gag and black grouper AMs, implemented through Amendment 16 to the FMP and the Comprehensive ACL Amendment, respectively, will remain. Amendment 24 would add in-season commercial and recreational AMs for red grouper. If commercial or recreational landings for red grouper reach or are projected to reach the applicable ACL as estimated by the SEFSC, the AA will file a notification with the Office of the Federal Register to close the commercial or recreational sector for the remainder of the fishing year.

Amendment 24 would specify overage adjustments for red grouper. If commercial or recreational landings for red grouper, as estimated by SEFSC, exceed the applicable ACL, the AA would file a notification with the Office of the Federal Register, to reduce the applicable ACL the following fishing year by the amount of the overage in the prior fishing year.

Overage adjustments are needed particularly for red grouper to follow guidance for stocks and stock complexes in rebuilding plans that ensure rebuilding occurs within the specified timeframe.

A proposed rule that would implement measures outlined in Amendment 24 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating Amendment 24 to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If the determination is affirmative, NMFS will publish the proposed rule in the Federal Register for public review and comment.

Consideration of Public Comments

The Councils submitted Amendment 24 for Secretarial review, approval, and implementation. NMFS' decision to approve, partially approve, or disapprove Amendment 24 will be based, in part, on consideration of comments, recommendations, and information received during the comment period on this notice of availability.

Public comments received by 5 p.m. eastern time, on [insert date 60 days after publication in the FEDERAL REGISTER], will be considered by NMFS in the approval/disapproval decision regarding Amendment 24.

Authority: 16 U.S.C. 1801 et seq.

Dated: February 22, 2012.

Steven Thur,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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